IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22270 of 2007(A)

AGAINST THE ORDER IN EP 150 OF 2006 IN OS.159/2001 of MUNSIFF COURT, VAIKOM
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PETITIONER:

VALSAMMA KURIYAN, W/O. KURIYAN,
WORKING AS CLERK, TRIVENI SUPER MARKET,
GANDHI NAGAR, KOCHI-20.

BY ADV. SRI.TOJAN J. VATHIKULAM
SRI.ANOOP U.R.

RESPONDENTS:
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1. SWAGATH CHITTIES,
MARKET ROAD, THALAYOLAPARAMBA, KOTTAYAM,
REPRESENTED BY ITS MANAGING PARTNER,
SAJAN JACOB.

2. P.U.KURIYAN,
VENGOLLIL HOUSE, ERAVIMANGALAM DESOM,
MUTHUCHIRA VILLAGE, VAIKOM TALUK, KOTTAYAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 22270 OF 2007

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Dated this the 19th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order of the Munsiff, Vaikom in E.P.150/06. As per the said order the learned Munsiff has directed attachment of salary at the rate of Rs.2,500/- for 24 months of Smt. Valsamma, the 2nd judgment debtor who is the writ petitioner before me. Along with the writ petition, the writ petitioner has produced her salary certificate as Ext.P4. It would show that her total emoluments per month is Rs.12,953/- out of which Rs.7,375/- is the basic pay. Rest of the amount is D.A., H.R.A. and C.C.A. From this amount, amount is deducted for P.F., LIC etc. As per the decision of this Court reported in **Sasidharan v. KCTSS Sangam (1994 (1) KLT 429)**, D.A., C.C.A. and H.R.A. are to be excluded as they are exempted from attachment by notification by the Government. When it is so, the total salary that can be considered u/s 60 will be Rs.7,375/-. As per law first 1,000/- rupees has to be

deducted and 2/3 of the remainder also has to be excluded. If it is done, then the total attachable salary that will be available will be Rs.2,125/-. A perusal of the salary certificate would show that at the rate of Rs.1,700/- per month the Court attachment is effected in O.S.174 and O.S.175/00 by the Munsiff Court, Vaikom. So when the attachable salary is only Rs.2,125/- there is attachment of about Rs.3,400/- and now if a further attachment is ordered it will be totally against law and therefore for the time being there is no attachable salary in this case and therefore the order requires interference. Therefore, the order under challenge is set aside and the Munsiff is directed not to have any attachment from the salary of the writ petitioner till the attachment that exists is over in the other two cases and further attachment can be done only as contemplated under the proviso to S.60(1)(i) of CPC.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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